

REMARKS

Please cancel claims 1, 34, 37, 40, 43, 46 and 47 without prejudice or disclaimer.
Claims 44 and 45 have been allowed. Please consider the following remarks:

Rejections under 35 U.S.C. §102

Claims 1, 34, 37, 40, 43, 46 and 47 are rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Barker et al. (U.S. Patent Number 6,369,201). Applicant respectfully traverses the rejection as it applies to the pending claims.

The Office Action alleges, in pertinent part, that the cited reference is available as prior art because the elements as recited in the present claims (e.g. amino acids 1-20, 20 to 262 or 263, 267 or 268 to 374 of SEQ ID NOs: 2, 4, 6, 8, 10, 12, 14, 16, 18 or 20) do not enjoy the priority date of U.S. Ser. No. 09/124,180, which was filed February 18, 1998 (hereinafter, the '180 application). Hence, Barker et al., filed on February 18, 1999, antedates the present application, which was filed on July 27, 2000.

Without acquiescing to the reasoning offered by the Office Action, in order to expedite prosecution toward allowance, Applicants have cancelled claim 15 herein, and amended claims 16 and 18 to depend on claim 1, thereby rendering the rejection moot. Accordingly, withdrawal of the rejection of under 35 U.S.C. § 102(e) is respectfully requested.

In re Application of:
Lee and McPherron
Application No.: 09/628,112
Filed: July 27, 2000
Page 4 of 4

PATENT
Atty Docket No.: JHU1120-11

Conclusion

In view of the amendments and above remarks, it is submitted that claims 44 and 45 are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application.

No fees are deemed necessary with the filing of this paper. However, the Commissioner is further authorized to charge any fees required by this submission, or credit any overpayments, to Deposit Account No. 07-1896 referencing the above-identified docket number.

Respectfully submitted,

Date: November 21, 2009



Lisa A. Haile, J.D., Ph.D.
Registration No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

DLA PIPER LLP (US)
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133
USPTO Customer Number 28213